

## **REMARKS**

### **I. The Pending Claims and the Amendments to the Claims**

With the entry of the amendments above, the pending claims are Claims 1-8, 10-14, and 16-22, with Claims 1, 6, 16, and 19 being the pending independent claims, and Claims 2-5, 7, 8, 10-14, 17, 18, and 20-22 being the pending dependent claims.

The only amendments to the claims are the amendments to independent Claims 1, 6, 16, and 19. These claims are amended to recite the multilayer film in the manner it is described in the specification at Page 5 lines 1-10. More particularly, Page 5 lines 1-10 of Applicants' specification states that the at least one styrene-based polymer makes up at least 35 weight percent of the film, based on total film weight, and that the styrene-based polymer comprises modified styrene-based polymer having polar groups thereon, in accord with the amendments to Claims 1, 6, 16, and 19. Page 13 lines 12-14 of Applicants' specification supports the further amendment reciting the multilayer film as having an overall thickness of from about 10 microns to 80 microns. The amendments include no new matter.

### **II. Claims 1-8, 10-14, and 16-22, as Amended, Are Patentable over the Art of Record**

In Section 4 of the 30 November Office Action, Claims 1-8, 10-14, and 16-22 are rejected under 35 USC 103(a) as unpatentable over WIRTH (US5171640) in view of BEUZELIN et al (GB 2288177). The office action states that WIRTH teaches multilayer materials containing EVOH and maleic anhydride modified styrene-based polymers in a b/a/c structure, and that the materials exemplified include ones in which the (b) layer is 69% to 79%

of the total material thickness, with the modified styrene-based polymer being present in the outer bonding layer in a ratio with respect to the weight of the gas-barrier resin of at least 0.1-1. The office action admits that while WIRTH fails to teach that the multilayer film has an overall thickness of from about 10 microns to 100 microns, BEUZELIN et al discloses a multilayer film having an overall thickness of from about “10 microns to 100 microns”, citing Page 14 Line 24 through Page 15 Line 12 of BEUZELIN et al. The Office Action goes on to state that BEUZELIN et al teaches the use of the multilayer film in a food/tray type container for the purpose of providing improved adhesive strength and resistance to layer separation.

Applicants contend that as amended above, Claims 1-8, 10-14, and 16-22 are patentable over the art of record, including WIRTH in view of BEUZELIN et al. Applicants point out that neither WIRTH nor BEUZELIN et al teaches or suggests that the multilayer film have an overall thickness of from 10 to 80 microns. More particularly, WIRTH teaches a thickness of from 140 microns to 4500 microns, i.e., 4.5 millimeters (see WIRTH at Col. 2 Lines 11 through 42 teach 20 microns + 100 microns + 20 microns, for a total minimum thickness of 140 microns). As to BEUZELIN et al, Applicants disagree with the statement in the office action that Page 14 Line 24 through Page 15 Line 12 of BEUZELIN et al teaches a multilayer film having an overall thickness of from about “10 microns to 100 microns”. BEUZELIN et al does NOT teach a 10 micron multilayer film. Rather, BEUZELIN et al teaches a coextruded multilayer composite having thickness of from 100 microns to 3000 microns (i.e., 3000 microns = 3 millimeters), or 500 microns to 2000 microns, or from 100 microns to 1000 microns, or from 100 microns to 600 microns. See BEUZELIN et al at Page 14 line 24 through 15 Lines 3-4. Thus, neither WIRTH nor BEUZELIN teaches or suggests a multilayer film having a total thickness of from

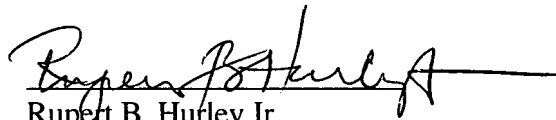
10 to 80 microns, and as such, the reliance on WIRTH in view of BEUZELIN et al fails to set forth a prima facie case of obviousness of Claims 1-8, 10-14, and 16-22 as amended hereinabove.

In addition, Applicants note that none of the previous office actions have set forth any specific statement that WIRTH and/or BEUZELIN et al teach or suggest the *substrate comprising foam*, as recited in Applicants' Claims 7, 8, 10, 11, 12, 13, and 14. Moreover, Applicants note that none of the previous office actions have set forth any specific statement that WIRTH and/or BEUZELIN et al teach or suggest a *foam substrate comprises substrate/film composite reclaim in an amount of from about 0.001 percent up to about 100 percent*, as recited in Applicants' Claims 8, 10, 11, 12, 13, and 14. Thus, these claims are patentable for these additional reasons.

#### IV. Conclusion

Applicants respectfully request reconsideration of the patentability of Claims 1-8, 10-14, and 16-22, with a view towards allowance.

Respectfully Submitted,



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